IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

JUDGMENT

S.B.Civil Writ Petition No.524/1996

Roshan Lal. vs. State of Rajasthan and others.

Date : 8.8.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.U Ghani, for the petitioner.

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BY THE COURT :

Heard learned counsel for the petitioner.

Brief facts of the case are that the tenders were invited by the respondents for grant of license for sale of Country Liquor, India Made Foreign Liquor (IMFL) and Beer. Minimum exclusive privilege amount for the group in question was fixed to the tune of Rs.1,67,60,800/- and details of which are as under :-

(A) Country Liquor	Rs.1,26,25,200/-
(B) IMFL (Retail)	Rs.34,96,600/-
(C) Beer (Retail)	Rs.6,39,000/-

TOTAL	Rs.1,67,60,800/-

The petitioner submitted tender for a sum of Rs.1,22,30,000/- which was accepted by the respondents vide communication dated 31.3.1995, copy of which is placed on record as Ex.5. The petitioner started his business, however, according to the petitioner, no formal license was documented and given to the petitioner but the petitioner got the license subsequently. The petitioner started running several shops for which he was given license. There is no dispute with respect to the rest of license fees except the license fees as claimed by the respondents of Rs.15,000/- per shop in condition no.7(kha). According to the petitioner, as per condition no.7(kha), if there is a shop of country liquor and there is no shop of IMFL, then at the shop of country liquor, sale of IMFL and Beer can be effected and for that the licensee will be required to make payment of Rs.15,000/- per shop. According to the petitioner, the said amount of Rs.15,000/- can be levied for each shop only in case, the license holder effects the sale of IMFL on any shop of country liquor. Then only the licensee will be required to make payment of Rs.15,000/- meaning thereby, it is dependent upon the wish of licensee whether he wants to sale IMFL on the shop of country liquor and if he decides not to sale IMFL on the shop of country liquor, then he need not to pay Rs.15,000/-. The respondents by communication dated 21.4.1995 made

said payment mandatory for all licensees irrespective of the fact whether they are selling IMFL in shop of country liquor or not. This communication dated 21.4.1995 is placed on record as Ex.6.

The respondents submitted reply to the writ petition and stated that the condition no.7(kha) is very clear and by this condition, license was granted to the licensee authorising them to sale country liquor in rural area and for that the licensee is required to pay Rs.15,000/- per shop. It is submitted that it is a license fees and not fees on sale. It is not dependent upon the wish of the licensee to sale IMFL in the shop in question.

I considered the submission of learned counsel for the petitioner and perused the record also.

Condition no.7(kha) is as under :-

"ख] जिन ग्रामीण क्षेत्रों में पूर्व में भारत निर्मित विदेशी मदिरा खुदरा एवं बीयर खुदरा की दुकान नहीं है, यहां देशी मदिरा दुकानों पर भारत निर्मीत विदेशी मदिरा एवं बीयर बेची जा सकेगी। 'अनुज्ञाधारी के लिये यह आवश्यक होगा कि ग्रामीण क्षेत्र की ऐसी सभी दुकानों के लिये वह 15,000/- (पन्द्रह हजार) रूपया प्रति दुकान जमा करायेगा। ऐसी सभी दुकानों के लिये यह राशि आवश्यक रूप से अनुज्ञाधारी को 20.3.95 तक जमा करानी होगी। इसके अतिरिक्त अन्य कोई ड्यूटी/फीस/शुल्क देय होगी वह नियमानुसार जमा करना होगा।"

A perusal of condition no.7(kha) makes it clear that in rural areas where there is no already existing shop for sale of IMFL and Beer, then the licensee shall be entitled to sell the IMFL and Beer also. This is the license and for that in the next line, it is clearly mentioned that the licensee shall have to pay Rs.15,000/- for this license for each shop. The only condition is that there should not have been any pre-existing shop where the IMFL and Beer are sold. Word "such" (ऐसी) refers to the rural places where there is not already existing shop for sale of IMFL and Beer. At all those places, where there is no shop for which license was granted for sale of IMFL and Beer, license has been granted to the licensee for sale of IMFL and Beer and for that the licensee is required to pay Rs.15,000/- per shop.

In view of the above reasons, I do not find any merit in this writ petition. Accordingly, this writ petition is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya